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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5095 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes

2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No.

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No.

5. Whether it is to be circulated to the Civil Judge?
No.

ZAVERI POLYMERS EMPLOYEES' UNION

Versus

ZAVERI POLYMERS LTD.

Appearance:

MR NR SHAHANI for Petitioner

MR KM PATEL for Respondent No. 1

Mr. Gerania, AGP for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 17/07/98

ORAL JUDGEMENT

Rule. Mr. Gerania, Assistant Government Pleader waives service of notice of Rule on behalf of respondent nos 3 to 4. Mr. K.M.Patel learned advocate for respondent no.1 waives service of Notice of Rule on behalf of respondent no.1.

2. The petitioner is a labour union of the workmen of respondent no.1. The petitioner has come before this court by contending that on 30.10.97 all of a sudden, respondent no.1 had stopped giving work to 450 workmen of the respondent no.1 and this has caused mass termination. It is further alleged that they had made a representation about the same to the authorities with a view to take a decision to make a reference to the Labour Court, by the representation dated 28.5.1998. It is further claimed that the respondent no.1 was not paying the minimum wages to the workmen and is therefore, violating the provisions of Minimum Wages Act and 3065 cases of prosecution under the Minimum Wages Act are pending against the respondent no.1. It is further alleged that the respondent no.1 is committing various criminal acts under various Labour Laws and is facing in all 346 prosecutions. The petitioner has come before this court as the respondents nos 2 to 4 are not taking any decision on the representation to make a reference. Similarly respondent no.2 to 4 are also not taking any decision regarding their claim for granting sanction to prosecute the respondent no.1.. They have therefore, come before this court with the following prayers.

"(A) directing Resp. Nos. 2,3 and 4 to immediately conclude the conciliation proceedings and make a reference to a competent Industrial Tribunal within a week from the date of order:

(B) directing Resp.nos. 2,3 and 4 to immediately examine our complaint for unfair labour practices at Annex. "D" and sanction the prosecution of the Resp. No.1 and issue authority for that purpose in favour of the petitioner union, within a period of two weeks from the date of order:

(C) directing the Resp. No. 1 to deposit the difference in minimum wages based on the inspection notes of the Inspector under Minimum Wages Act in the Registry of this Hon'ble Court, within one week.

(D) directing the Resp.No.1 to permit the workmen list at Annex. "E" to rejoin their

duties without any conditions, immediately.

(E) Any other and further reliefs in view of the peculiar circumstances of lockout and non payment of minimum wages subsisting in the factory of Resp.No.1, may be deemed just and proper by Your Lordships may please be granted.
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3. Learned advocate for the respondent no.1 states that negotiation for conciliation has taken place and there is no possibility of any conciliation between the parties. He further states that there is likelihood of sending a failure report of conciliation officer to the Government.

4. Learned Assistant Government Pleader Mr. Gerania states that he has no instructions in this respect. But any way, representation is made by the workmen in writing on 20.5.1998. Therefore, it is the claim of the petitioner that 450 workmen are out of job. Therefore, it is expected of the Government machinery to move quickly and take appropriate decision therefore, in the circumstances, I would direct the respondent nos 2 to 4 to take a decision on the representation made by the petitioner on 28.5.98 and in case a reference is to be made the same should be made by the respondent to the Labour Court on or before 31.7.1998.

5. As regards the prayer regarding sanction for prosecution as per the representation made by the petitioner vide Annex.D, respondents nos 2 to 4 should take a decision on the said representation which is made on 25.5.1998 regarding giving approval and sanction for the prosecution for considering the said representation and other material that may be available with them and inform the petitioner about their decision on or before 7.9.1998. Regarding payment of minimum wages, the petitioner will be making said claim before the appropriate authority. It is expected that the authority should decide said claim within six months from the date of filing of such claim. As regards the prayer regarding issuing directions the respondent no.1 to permit the workmen to rejoin their to duties without any condition, the same cannot be granted at this stage. AS regards prayer (E), learned advocate for the petitioner is not pressing for the same.

6. In the circumstances, the petition is partly allowed as indicated above. Rule is made absolute in the

aforesaid terms. No order as to costs.

DSP for respondents nos 2,3 and 4.

(S.D.Pandit.J)